

400 Washington Avenue, Room 221
Towson, Maryland 21204



Office (410) 887-3193
Fax (410) 887-4621

OFFICE OF THE COUNTY AUDITOR INTEROFFICE MEMORANDUM

TO: All Council Members
FROM: Lauren M. Smelkinson, County Auditor
DATE: February 19, 2019
SUBJECT: Addendum to Council Meeting Notes

Please find attached an addendum (FM-2) to the Council Meeting Notes issued February 7, 2019. This item was discussed at the February 12, 2019 work session for the February 19, 2019 Council meeting without a fiscal note because the procurement approval was still pending.

Attachment

cc: notes distribution list

FM-2 (Contract)**Council District(s) All****Circuit Court****Foreclosure Case Review Services**

The Administration is requesting approval of a contract with Jeffrey Dobson to provide foreclosure review services for the Circuit Court. The contract commenced July 1, 2018, continues until June 30, 2019, and may not exceed \$25,000 unless approved by the Council. If approved, the contract will renew automatically for five additional 1-year periods. Compensation may not exceed \$62,000 for the initial 1-year term and \$372,000 for the entire 6-year term, including the renewal periods. See Exhibit A.

Fiscal Summary

Funding Source	Initial Term	Maximum Compensation
County ⁽¹⁾	\$ 62,000	\$ 372,000
State	--	--
Federal	--	--
Other	--	--
Total	\$ 62,000 ⁽²⁾	\$ 372,000 ⁽³⁾

⁽¹⁾ General Fund Operating Budget.

⁽²⁾ Maximum compensation for the initial 1-year term.

⁽³⁾ Maximum compensation for the entire 6-year term, including the renewal periods.

Analysis

The Circuit Court advised that it processes approximately 150-225 foreclosure cases per month and contracts with foreclosure specialists (attorneys and law students) to review case files for compliance with Maryland law. The Court further advised that in FY 2018, it contracted with two attorneys (one resigned) and one law student to review foreclosure cases; in FY 2019, it has one attorney (Mr. Dobson) and one part-time law student (who will not be available in May and June) and is searching for a second law student to assist with foreclosure review services.

The contract states that Mr. Dobson will be compensated \$34 per hour for foreclosure review services.

The contract commenced July 1, 2018, continues until June 30, 2019, and may not exceed \$25,000 unless approved by the Council. If approved, the contract will renew automatically for five additional 1-year periods on the same terms and conditions, unless the County provides notice of non-renewal. Compensation may not exceed \$62,000 for the initial 1-year term and any renewal term, or \$372,000 for the entire 6-year term, including the renewal periods. Either party may terminate the agreement by providing notice.

On August 20, 2017, the County entered into a similar 1-year contract with Mr. Dobson, which commenced July 1, 2017, not to exceed \$25,000. On January 16, 2018, the Council approved an amendment to the contract, increasing the maximum compensation by \$30,000 to \$55,000 for the entire 1-year term. The County's financial system indicated that as of January 31, 2019, \$51,488 has been expended/encumbered under this contract. The Court advised that since the contract expired on June 30, 2018, Mr. Dobson has continued to provide foreclosure review services; the County's financial system indicated that as of January 31, 2019, Mr. Dobson has been compensated \$29,067 in FY 2019.

The Court requested that the proposed contract be designated as a noncompetitive 902(f) contract secured in the best interest of the County. On February 15, 2019, the Director of Budget and Finance approved this request. County Charter, Section 902(f), states that "when ...[competitive] bidding is not appropriate, a contract shall be awarded only by competitive negotiations, unless such negotiations are not feasible. When neither competitive bidding nor competitive negotiations are feasible, contracts may be awarded by noncompetitive negotiations." The Court advised that it would be implausible to find anyone as experienced in foreclosure review services as Mr. Dobson, who has been performing these services for the County since 2014.

County Charter, Section 715, requires that "any contract must be approved by the County Council before it is executed if the contract is...for services for a term in excess of two years or involving the expenditure of more than \$25,000 per year...." As previously mentioned, the contractor has been compensated in excess of \$25,000 in FY 2019 without Council approval. We believe this situation may constitute a violation of the aforementioned section of the County Charter.



COUNCIL ACTION REQUEST FORM EXECUTIVE SUMMARY

The Circuit Court for Baltimore County processes approximately 2,500 foreclosure filings per year. The amount of foreclosure filings has decreased from last year, yet remains relatively high. The Court contracts with foreclosure specialists to review the files for compliance with Maryland law. The Court contracts with attorneys and law students and pays them hourly based upon their experience. Last fiscal year the Court contracted with two attorneys and one law student. This fiscal year we have one attorney and one law clerk currently under contract.

Jeff Dobson Esquire, one of the contracted foreclosure specialists, has earned \$25,000 this fiscal year, and this CARF seeks County Council approval to pay him more than the \$25,000 in fiscal year 2019. It would be implausible to find anyone experienced in foreclosure processing such as Mr. Dobson. He has been performing this service for the Court since 2014 and has developed and refined the process. Mr. Dobson trains the other foreclosure specialists. His experience is unique and the Bench has come to rely on his expertise in the area of foreclosures.

Assuming the rate of foreclosures remains the same through the end of the fiscal year and the likelihood of the other contractor not being available to work in late May and all of June, then Mr. Dobson will be needed to provide the Foreclosure Services. Thus, it is anticipated that he would earn as much as \$62,000 under this fiscal year's contract. Last year the County Council approved the contract at a level of \$55,000 per year. This request asks for a maximum of \$62,000 under the contract.

Prepared by: Circuit Court